

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JOHN PHILIP STIRLING,

Case No. 3:20-cv-00713-SB

Plaintiff,

ORDER

v.

CHINA, *et al.*,

Defendants.

BECKERMAN, U.S. Magistrate Judge.

On May 13, 2020, the Court ordered Plaintiff John Philip Stirling (“Stirling”), a self-represented litigant in custody at Federal Correctional Institution Sheridan (“Sheridan”), to submit the requisite \$400 filing fee or to apply to proceed *in forma pauperis* within thirty days. (ECF No. 6.) On May 26, 2020, Stirling filed a Response (ECF No. 7), arguing that this action is exempt from all fee requirements pursuant to [28 U.S.C. § 1916](#). The Court disagrees, and instructs Stirling to either submit an application to proceed *in forma pauperis* or pay the \$400 filing fee.

Stirling argues that he is exempt from the filing fee requirement pursuant to [28 U.S.C. § 1916](#) (“Seamen’s Suits”), which provides:

In all courts of the United States, seamen may institute and prosecute suits and appeals in their own names and for their own benefit for wages or salvage or the enforcement of laws enacted for their health or safety without prepaying fees or costs or furnishing security therefor.

Stirling alleges that this action is a “seamen’s suit” under 28 U.S.C. § 1916 because he has credentials that allow him to captain various sizes of fishing vessels and he has engaged in commercial fishing since 1980. (Resp. at 4.) Stirling further states that he amends his pleading “to contain only seamen suit issues for ‘wages’ and ‘laws enacted for my health.’” (*Id.* at 5.)

Even if Stirling qualifies as a “seaman,” the statute on its face applies only to “suits and appeals . . . for wages or salvage or the enforcement of laws enacted for their health or safety.” 28 U.S.C. § 1916. Stirling does not allege a violation of any laws enacted for the health and safety of seamen, and therefore the statute does not exempt Stirling from paying the \$400 filing fee required by law. *See* 28 U.S.C. § 1915(b)(1) (requiring that “if a prisoner brings a civil action or files an appeal in forma pauperis, the prisoner shall be required to pay the full amount of a filing fee”); 28 U.S.C. § 1915(b)(2) (requiring that a prisoner granted *in forma pauperis* status must pay installments of 20 percent of the preceding month’s income credited to his account until the filing fee is paid after the assessment of an initial partial fee).

The Court declines Stirling’s request to amend his complaint to state a claim for wages or a claim for violations of laws enacted for the health and safety of seamen, because Stirling has not identified any such laws that are applicable to his allegations against China and its government for the spread of COVID-19 and the resulting lockdown at Sheridan.

CONCLUSION

For the reasons stated, the Court ORDERS Stirling to submit an application to proceed *in forma pauperis*, or pay the \$400 filing fee, within twenty-one days of the date of this Order. Failure to do so will result in the dismissal of this proceeding.

The Court DIRECTS the Clerk of Court to send Stirling a form application to proceed *in forma pauperis*.

IT IS SO ORDERED.

DATED this 16th day of June, 2020.



STACIE F. BECKERMAN
United States Magistrate Judge